

HOLLAND & HART ^{LLP}
ATTORNEYS AT LAW

DENVER • ASPEN
BOULDER • COLORADO SPRINGS
DENVER TECH CENTER
BILLINGS • BOISE
CHEYENNE • JACKSON HOLE
SALT LAKE CITY

SUITE 1400
101 SOUTH CAPITOL BOULEVARD
BOISE, IDAHO 83702-7714
MAILING ADDRESS
P.O. BOX 2527
BOISE, IDAHO 83701-2527

TELEPHONE (208) 342-5000
FACSIMILE (208) 343-8869

BRADLEY J. WISKIRCHEN
bwiskirchen@hollandhart.com

July 18, 1997

VIA FEDERAL EXPRESS

DOCKET FILE COPY ORIGINAL

JUL 21 1997

Secretary
The Federal Communications Commission
1919 M. Street, N.W., Room 222
Washington, D.C. 20554

Re: Petitioner's Reply to Comments and Counterproposal
Notice of Proposed Rule Making, DA 97-990 (released May
16, 1997), MM Docket No. 97-131, RM-9078

Dear Secretary:

Enclosed for filing is JTL Communications Corporation's Reply to Comments and Counterproposal in the above-referenced matter, and four copies thereof. Please call us at the telephone number above if you have any questions, comments, or concerns about this reply.

Thank you for your help in this matter.

Very truly yours,



Bradley J. Wiskirchen
for Holland & Hart ^{LLP}

Enclosures

4 of 4 Copies rec'd
JUL 21 1997

024

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION

WASHINGTON, D.C. 20554

RECEIVED
JUL 21 1997
FCC MAIL ROOM

In the Matter of) MM Docket No. 97-131
) RM-9078
Amendment of Section 73.202(b))
Table of Allotments,) **PETITIONER'S REPLY TO**
FM Broadcast Stations.) **COMMENTS AND COUNTERPROPOSAL**
(Twin Falls, Idaho))
_____)

Petitioner JTL Communications Corporation ("JTLCC"), by the undersigned attorney, hereby replies to the Comments and Counterproposal of Hailey Local Service Co. ("HLSC") dated July 3, 1997.

Although it is true that amending Section 73.202(b) of the Commission's rules to allot Channel 294C to Hailey, Idaho, could be construed as promoting the objectives of 47 U.S.C. § 307(b), and may be in accordance with the third allotment priority set forth in *Revision of FM Assignment Policies and Procedures*, 90 F.C.C.2d 88, 91 (1982), it is possible for the Commission to provide Hailey with its first local transmission service while simultaneously granting the change to the Table of Allotments proposed in the Commission's *Notice of Proposed Rule Making*, DA 97-990 (released May 16, 1997). In support of the foregoing, JTLCC states:

JTLCC believes the public interest would be served by the Commission's allotment of Channel 294A to Twin Falls, Idaho, as that community's fourth FM broadcast service. If allotted to Twin Falls, Channel 294A would provide service to one of Idaho's largest communities—accounting for more than 60,000 of Idaho's estimated 1,189,250 residents. To buttress this assertion, JTLCC provides the Commission with the following information about Twin Falls which has been extrapolated from the *Twin Falls Idaho General Information Guide* (1997) (published by the Twin Falls Area Chamber of Commerce):

1. **POPULATION.** The city of Twin Falls is an incorporated community which had a 1990 U.S. Census population of 27,591, and has a 1996 estimated population of 32,843. Twin Falls is the seat of Twin Falls County, which had a 1990 U.S. Census population of 53,584, and has a 1996 estimated population of 61,196.

2. **GOVERNMENT.** Twin Falls has its own mayor, city council, city manager, police department, fire department, and library. It is the community in which the Twin Falls County Courthouse and Twin Falls County Sheriff's office are located.

3. **EDUCATION.** More than 7,100 students attend seven (7) elementary schools, two (2) junior high schools, a high school, an alternative high school, and six (6) private and parochial schools in Twin Falls. The fastest-growing institution of higher education in Idaho, the College of Southern Idaho, is also located in Twin Falls. The 4,500 students of the College of Southern Idaho and residents of both the city and county of Twin Falls all benefit from a new campus library, the Herrett Center for the Arts and Sciences, and the world class Faulkner Planetarium. Students in Twin Falls can also pursue bachelor's, master's, and doctoral degrees through classes offered on the campus of the College of Southern Idaho by Boise State University, Idaho State University, and the University of Idaho.

4. **HEALTH CARE.** There are two hospitals in Twin Falls, the Magic Valley Regional Medical Center and the Twin Falls Clinic & Hospital. The Magic Valley Regional Medical Center ("MVRMC") serves all of South Central Idaho and Northern Nevada with general, acute medical care. MVRMC employs a staff of more than 700 employees and over 95 physicians. MVRMC boasts a new \$2.8 million Women and Infants Center, a new Transitional Care Unit, an expanded occupational health program to serve the area's employers, and the Southern Idaho Regional Cancer Center. The Twin Falls Clinic & Hospital employs a staff of

19 physicians, a physician assistant, and a certified nurse practitioner. Numerous other health care facilities are also located in Twin Falls.

5. **BUSINESS.** Twin Falls is the retail services hub for more than 200,000 people in South Central Idaho and Northern Nevada. The city is home to the only mall in the region, Magic Valley Mall, and a host of other retailers in several smaller shopping centers, a busy downtown district, and an emerging Old Towne. The Magic Valley Regional Airport, which serves the residents of Twin Falls County and surrounding region, is also located in the city of Twin Falls. Many of the nation's top food processors have chosen to conduct their businesses from Twin Falls. For example, Lamb Weston, Falls Brand Meats, Ore-Ida, Simplot, Coors, Seneca Foods, and Amalgamated Sugar all operate major facilities in the Twin Falls area. Clear Shield National, a major manufacturer of disposable flatware and straws, announced in 1996 that it intends to build a plant in Twin Falls. Other major manufacturers in Twin Falls include Spears Manufacturing, Norco Windows, Charmac Trailers, Longview Fibre, Boise Cascade, Seastrom Manufacturing, and Web Specialties.

As previously stated herein, it is possible for the Commission to serve the public interest, and the foregoing community in particular, by granting the change to the Table of Allotments proposed in the Commission's *Notice of Proposed Rule Making*, DA 97-990 (released May 16, 1997) and for the Commission to provide Hailey with its first local transmission service. As indicated by the technical showing of Lawrence Behr Associates, Inc., attached hereto and incorporated herein as Exhibit "A," Channel 233C can be allotted to Hailey from a site located 28.86 kilometers on a true bearing of 386° (NNW) from the reference coordinates of Hailey. The geographical coordinates for the restricted site are NL 43° 45' 38", WL 114° 26' 40". A class C station operating from the restricted coordinate site will place a signal in excess of 70 dBu over the entire community of Hailey.


This allotment would, therefore, meet the minimum distance separation and city grade coverage requirements of §§ 73.207 and 73.315, Title 47 of the Code of Federal Regulations, would not require a change in the existing allotments, and would amend the FM Table of Allotments in § 73.202(b) of the Commission's Rules to read as follows:

<u>City</u>	<u>Channel No.</u>	<u>Present</u>	<u>Proposed</u>
Hailey, Idaho		- - -	233C

By allotting Channel 294A to Twin Falls and Channel 233C to Hailey, the Commission would promote the objectives of 47 U.S.C. § 307(b) while simultaneously providing 20% of the State of Idaho with its fourth FM broadcast service. Therefore, JTLCC respectfully requests that the Commission DENY the counterproposal of HLSC and AMEND the FM Table of Allotments by ALLOTING Channel 233C to Hailey, Idaho and by ALLOTING Channel 294A to Twin Falls, Idaho.

DATED this 18^h day of July 1997.

HOLLAND & HART LLP

By  _____
 J. Frederick Mack, for the firm
 Bradley J. Wiskirchen, for the firm
 Suite 1400, U. S. Bank Plaza
 101 South Capitol Boulevard
 Post Office Box 2527
 Boise, Idaho 83701
 Telephone: (208) 342-5000

Attorneys for Petitioner JTL
 Communications Corporation

CERTIFICATE OF SERVICE

I hereby certify that on this 18th day of July 1997, I caused to be served a true and correct copy of both the Petitioner's Reply to Comments and Counterproposal and Exhibit "A," the Engineering Statement in Support thereof, by the method indicated below, and addressed to the following:

John A. Karousos, Chief
Allocations Branch
Policy and Rules Division
Mass Media Bureau
Federal Communications Commission
2000 M Street, N.W., Room 565
Washington, D.C. 20554

☐ U.S. Mail
☐ Hand Delivered
☒ Overnight Mail
☐ Telecopy (Fax)

Ms. Kathleen Scheuerle
Allocations Branch
Policy and Rules Division
Mass Media Bureau
Federal Communications Commission
2000 M Street, N.W., Room 565
Washington, D.C. 20554

☐ U.S. Mail
☐ Hand Delivered
☒ Overnight Mail
☐ Telecopy (Fax)

Harry C. Martin, Esq.
Andrew S. Kersting, Esq.
Fletcher, Heald & Hildreth, P.L.C.
1300 N. 17th Street, 11th Floor
Rosslyn, Virginia 22209

☒ U.S. Mail
☐ Hand Delivered
☐ Overnight Mail
☐ Telecopy (Fax)

Counsel for Hailey Local Service Co.


for HOLLAND & HART LLP

BOISE:0079915.01/38898.1001

3400 Tupper Drive
Greenville, North Carolina 27834
919-757-0279 800-522-4464
919-752-9155 FAX
Email: lbassc@lbagroup.com

.....

Lawrence Behr Associates, Inc.

Engineering Statement in Support of Reply Comments in MM D97-131 in RM-9078 Regarding Twin Falls, Idaho

.....

*JTL Communications
Twin Falls, Idaho*

17 July 1997



EXHIBIT

A

NOTICE

This work is based upon our best interpretation of available information. However, these data and their interpretation are constantly changing. Therefore, we do not warrant that any undertaking based on this report will be successful, or that others will not require further research or actions in support of this proposal or future undertaking. In the event of errors, our liability is strictly limited to replacement of this document with a corrected one. Liability for consequential damages is specifically disclaimed. Any use of this document constitutes an agreement to hold Lawrence Behr Associates, Inc. and its employees harmless and indemnify it for any and all liability, claims, demands, litigation expenses and attorneys fees arising out of such use.

Work product documents released prior to account settlement remain the sole property of Lawrence Behr Associates, Inc. and must be returned on demand. Underlying work notes and data relating to this document remain the property of Lawrence Behr Associates, Inc. This document shall not be reproduced in whole or part without permission of Lawrence Behr Associates, Inc. Any dispute hereunder shall be adjudicated in North Carolina. Any use or retention of this document constitutes acceptance of these terms, the entire work product, and all charges associated therewith.

COPYRIGHT 1997 BY
LAWRENCE BEHR ASSOCIATES, INC.
GREENVILLE, NORTH CAROLINA

.....

Engineering Statement in Support of Reply Comments in MM D97-131 in RM-9078 Regarding Twin Falls, Idaho

*JTL Communications
Twin Falls, Idaho*

Introduction

JTL Communications Corporation in MM D97-131, RM-9078, proposed the allotment of channel 294A to Twin Falls, Idaho. Hailey Local Service Company has filed comments and a counter proposal in this proceeding. Hailey Local Service Company has proposed the allotment of channel 294C to Hailey, Idaho. This proposal is in conflict with the proposal to allot channel 294A to Twin Falls. The instant statement supports a request to allot channel 233C to Hailey in place of channel 294C.

Engineering Study Results

An engineering study revealed that channel 233C can be allotted to Hailey, Idaho from a site located 28.86 kilometers on a true bearing of 338.6° (NNW) from the reference coordinates of Hailey. The geographical coordinates for the restricted site are NL 43° 45' 48", WL 114° 26' 40". A Class C station operating from the restricted coordinate site will place a signal in excess of 70 dBu over the entire community of Hailey as required by 47CFR §73.315.

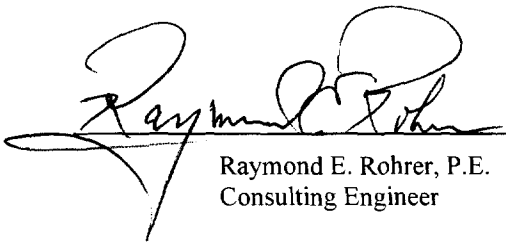
Proposed Changes

Annex 1.0 contains the results of a study showing that the mileage separation requirements set forth in 47CFR §73.207 are met for the operation on channel 233C from the site restricted coordinates. It is proposed to amend the FM Table of Allotments in 47CFR §73.202(b) to read:

	<u>Channel No.</u>	
<u>City</u>	<u>Present</u>	<u>Proposed</u>
Hailey, Idaho	- - -	233C

Under the penalty of perjury it is stated that the information contained herein was prepared by the undersigned and is true and correct to the best of his knowledge and belief.

17 July 1997



Raymond E. Rohrer, P.E.
Consulting Engineer

Annex 1.0

Allocation Study

JTL Communications
Twin Falls, Idaho

FM Spacing study

Title: HAILEY, ID 17867002
 Channel 233C (94.5 MHz)
 Database: DW 07/09/97

Latitude: 43-45-48
 Longitude: 114-26-40
 Safety zone: 10 km

Call City of License	Auth Licensee name	St FCC File no.	Chan Freq	ERP-kW EAH-m	Latitude Longitude	Br-to -from	Dist. (km)	Req. (km)
KTAK	LIC RIVERTON BCG CO INC		230C1	50	42-43-10	100.6	524.6	105
RIVERTON	WY		93.9	290	108-08-45	285.0	419.6	CLEAR
KBXL	LIC KSPD INCORPORATED		231C	40	43-45-14	270.1	133.5	105
CALDWELL	ID BLH-821122AA		94.1	785	116-06-08	89.0	28.51	CLEAR
KADQ	LIC TED W. AUSTIN, JR.		232A	2.90	43-48-56	87.5	216.3	165
REXBURG	ID BLH-811120AI		94.3	94	111-45-28	269.4	51.33	CLEAR
KVFM	LIC SUN VALLEY RADIO, INC.		233C1	15.5	41-53-50	134.8	290.2	270
LOGAN	UT		94.5	350	111-57-39	316.5	20.20	CLEAR
ONE-STEP APPLICATION TO CHANGE CLASS TO C								
KVFM	CP SUN VALLEY RADIO, INC.		233C	70	41-53-50	134.8	290.2	290
LOGAN	UT BPH-950808ID		94.5	350	111-57-39	316.5	.198	CLOSE
CP Granted 10/05/95 per FCC release #* dated 10/11/95; CP Granted 10/05/95 per FCC release #* dated 10/11/95; ONE-STEP APPLICATION TO CHANGE CLASS FROM C1								
KBYA	LIC SAPPHIRE BROADCASTING, I		234C	88	39-15-30	223.0	666.0	241
CARSON CITY	NV BLH-870901KA		94.7	632BT119-42-36	39.5	425.0		CLEAR
Deletion proposed; ORDERED TO FAIR OAKS, CA; Was KTHX-FM 01/20/97 per FCC release #298 dated 01/24/97								
KFXD-FM	LIC DOUBLEDDEE BROADCASTING G		235C	48.6	43-45-18	270.2	133.1	105
NAMPA	ID BLH-870807KE		94.9	821	116-05-52	89.0	28.15	CLEAR
KMMS-FM	LIC GILBERT BROADCASTING COR		236C1	100	45-40-24	51.8	354.1	105
BOZEMAN	MT BLH-860825KA		95.1	238BT110-52-02	234.3	249.1		CLEAR
Was KUUB-FM 05/15/91 per FCC release #158 dated 05/17/91								
KJOT	LIC BOISE VIKING ASSOCIATES		286C	52.5	43-45-19	270.2	133.1	48
BOISE	ID BLH-861027KB		105.1	789	116-05-52	89.0	85.15	CLEAR
CALL GRANT OF KOZO SET ASIDE								
KMTX-FM	LIC CAPITAL INVESTMENTS		287C	100	46-44-52	25.8	370.9	48
HELENA	MT BLH-900314KB		105.3	593BT112-19-47	207.3	322.9		CLEAR

>> End of channel 233C study <<